

**FUNERAL DIRECTORS EXAMINING BOARD MEETING
MINUTES
AUGUST 23, 2005**

PRESENT: Rick Unbehaun, J. C. Frazier, Bonnie Gift, Rosalie Murphy, and David Olsen

EXCUSED: Connie Ryan

STAFF PRESENT: Kimberly Nania, Division Administrator; Tim Wellnitz, Bureau Director; Jacquelyn Rothstein, Legal Counsel; Pat Schenck, Program Assistant; and Division of Enforcement Staff

GUESTS: Mark Paget, WFDA

CALL TO ORDER

Rick Unbehaun, Chair, called the meeting to order at 9:35 a.m. A quorum of five members was present.

AGENDA

Additions to agenda:

- Add David Olsen's report from ICFSEB meeting of April 9-10, 2005 to Item # 8.

MOTION: Bonnie Gift moved, seconded by David Olsen, to approve the agenda with addition. Motion carried unanimously.

APPROVAL OF MINUTES MAY 17, 2005

MOTION: David Olsen moved, seconded by Rosalie Murphy, to approve the minutes of May 17, 2005 as written. Motion carried unanimously.

**ADMINISTRATIVE REPORT
KIMBERLY NANIA, DIVISION ADMINISTRATOR**

Secretary Celia Jackson greeted the Board, introduced Larry Martin as the new Executive Assistant of the Department, reiterated her open door policy for all Board members, and reported that she will be traveling throughout the State of Wisconsin and may call upon individual Board and Section members in their hometowns. Objective is to build relationships with the Board members and to create an opportunity for the public to gain access to State government and the Department.

The Board expressed their appreciation and thanks to the Secretary for taking time to meet with the Board.

Dr. Nania updated the Board on the building renovation project and stated that the Department may be moving into the new space by the middle of October.

Dr. Nania introduced Tim Wellnitz as the new Bureau Director of Business, Design professions, and reported that Larry Martin, Executive Assistant replaced Chris Klein who has moved to the Department of Transportation.

2006 Meeting Dates

MOTION: J. C. Frazier moved, seconded by Bonnie Gift, to approve the 2006 meeting dates as scheduled. Motion carried unanimously.

Summary Reports on Pending Court Cases, Disciplinary Cases and Administrative Rules and Press Releases

Noted.

PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT

Lara Herman, Attorney, DOE, presented the proposed stipulation in the matter concerning Mark S. Golden, and Golden Funeral Home 04 FDR 008.

LEGISLATIVE UPDATE/RECAP

AB 75 Authorizing the Cremation of Human Remains

Jacquelynn Rothstein reported that the Governor signed the cremation bill into law on August 15, 2005. Assembly Bill 75 creates a Crematory Authority Council in the Department of Regulation and Licensing. In addition, the bill creates a new subchapter of the statutes relating to crematory authorities. That subchapter establishes requirements regarding registration of crematory authorities and specifies powers and duties of persons who may direct cremation, described in the bill as “authorizing agents.” The subchapter also establishes requirements for crematory authorities, cremations, and deliveries and disposition of cremated remains.

One of the cremation issues regulated by AB 75 is that of who authorizes the cremation. Assembly Bill 75 defines an “authorizing agent” and specifies who may act as an authorizing agent and direct the cremation of the human remains of a decedent, in a way that would allow specified persons who objected to cremation to overrule a decedent’s intentions for cremation. Senate Amendment 1 removes these provisions and replaces references to “authorizing agent” in the bill with references to “person directing the cremation,” without specifying who that person would be.

Mr. Unbehaun expressed thanks to FDA, FSA, present and past board members and the Department for their work and involvement in getting Assembly Bill 75 Bill passed.

AB 485 Regulating Funeral Directors and Funeral Establishments, Regulating Cremation and Funeral Advertising, and Providing a Penalty

Mark Paget, WFDA, reported on Assembly Bill 485 relating to regulating funeral directors and funeral establishments, regulating cremation and funeral advertising and providing a penalty. This bill makes various changes to the regulation of funeral establishments and directors and creates requirements for printed advertising for cremation and funeral services.

Under this bill, a funeral establishment must satisfy the following requirements to receive a permit: 1) the funeral establishment must have a seating capacity of 50 or more persons; 2) the building or structure in which the funeral establishment is located must not contain more than one other business that does not provide goods or services related to funerals, burial, or the final disposition of human remains; and 3) such a building or structure must be affixed to real property.

There was a public hearing held on July 26, 2005. The Committee is reviewing the merit of this bill. This is a clean-up bill to protect the consumers.

PRACTICE ISSUES

Notice of Removal of a Human Corpse DHFS Form - DPH 5043 Part 1 & 2 -Update

Ms. Rothstein reported on the "Notice of Removal of a Human Corpse DHFS Form – DPH 5043" and the changes requested by the Board to item # 17 at their February 8, 2005 meeting. DHFS made significant improvements but the wording is not what the Board had intended.

MOTION: David Olsen moved, seconded by Rosalie Murphy, to reiterate to the DHFS that although the Board believes that the language reflected is an improvement of the prior form that the Board stands by its motion from February 8, 2005 and again makes the request that DHFS use this language on their form. *(The body is being removed by a family member. The following documents must be prepared and filed: Notice of Removal, Report for Final Disposition, and Death Certificate must be filed).*
Motion carried unanimously.

ICFSEB

The Conference Report – ICFSEB April 9-10, 2005

David Olsen reported on the ICFSEB April 9-11, 2005 conference he attended in Rogers, AR on April 9-10, 2005. Items of interest included:

- Mortuary science school issues
- Budget impact on funeral service
- Discussion of disposition of organs following autopsy
- Continuing education requirements and maintenance of records

- Discussion on “right of control” for final disposition (cremation authorization)

BOARD MEMBER ACTIVITY

The Board members gave brief reports on activities undertaken since the last meeting.

VISITORS COMMENTS

Mark Paget, WFDA discussed the cremation bills right of disposition and the control of human remains. The initial crematory bill had an authorizing agent prohibition on who could authorize a cremation. The right of disposition and control of human remains was removed from the cremation bill that was signed by the Governor.

A work group will begin drafting a bill to address the right of disposition. Funeral directors believe that the rights of final disposition belong to the next of kin, the survivors and that the survivor's have a right to be heard. The opposing side believes that the decedent should be able to spell out exactly how they would like their funeral without their loved ones changing their wishes.

Currently Wisconsin does not have a law regarding the rights of disposition of the decedent.

MOTION: Rosalie Murphy moved, seconded by J. C. Frazier, to nominate David Olsen as the Board's liaison to participate on the work group in drafting a Bill to address the rights of disposition. Motion carried unanimously.

NEW BUSINESS

None.

CLOSED SESSION

MOTION: Rosalie Murphy moved, seconded by J. C. Frazier, to convene to Closed Session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; to consider licensure or discipline (s. 19.85(1)(b), Stats.; to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats. Roll Call Vote: Rick Unbehaun-yes; J.C. Frazier-yes; Bonnie Gift-yes; David Olsen-yes; Rosalie Murphy-yes. Motion carried unanimously.

Open Session recessed at 11:00 a.m.

The Board deliberated on the Monitoring Report, the Case Status Report and Case Closings, Proposed Stipulations, Proposed Administrative Warnings, and Pending Applications.

RECONVENE TO OPEN SESSION

MOTION J. C. Frazier moved, seconded by Boninie Gift , to reconvene into Open Session at 11:18 a.m. Motion carried unanimously.

**VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION,
IF VOTING IS APPROPRIATE**

MONITORING REPORTS

None.

CASE CLOSINGS

05 FDR 003

MOTION: J. C. Frazier moved, seconded by Rosalie Murphy, to close case **05 FDR 003** for insufficient evidence. Rick Unbehaun, Case Advisor. Motion carried unanimously.

02 FDR 037

MOTION: J. C. Frazier moved, seconded by Bonnie Gift, to close case **02 FDR 037** for prosecutorial discretion (P7) . Connie Ryan, Case Advisor. Motion carried unanimously.

02 FDR 033

MOTION: J. C. Frazier moved, seconded by Rosalie Murphy, to close case **02 FDR 033** for prosecutorial discretion (P7). Connie Ryan, Case Advisor. Motion carried unanimously.

02 FDR 031

MOTION: J. C. Frazier moved, seconded by David Olsen, to close case **02 FDR 031** for prosecutorial discretion (P7). Connie Ryan, Case Advisor. Motion carried unanimously.

STIPULATION

MARK S. GOLDEN, AND GOLDEN FUNERAL HOME

MOTION: J. C. Frazier moved, seconded by Bonnie Gift, to adopt the Proposed Stipulation, Final Decision and Order in the matter concerning **Mark S. Golden, and Golden Funeral Home 04 FDR 008**. Rick Unbehaun, Case Advisor. Motion carried.

PENDING APPLICATIONS

None.

ADJOURNMENT

MOTION: David Olsen moved, seconded by Bonnie Gift, to adjourn the meeting at 11:20 a.m. Motion carried unanimously.

NEXT MEETING: November 15, 2005

Suggested Agenda Items

- 2006 ICFSEB Annual Meeting April 4-6, 2006, Louisville, KY (*nominate delegate*)